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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/691,679

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Christopher A. Ras

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EXAMINER

TUGBANG, ANTHONY D

ART UNIT

PAPER NUMBER

3729

MAIL DATE

DELIVERY MODE

10/18/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/691,679

Applicant(s)

RAS ET AL.

Examiner

A. Dexter Tugbang

Art Unit

3729

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-30 and 32-42 is/are pending in the application.
- 4a) Of the above claim(s) 12-30, 35 and 39-41 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 32-34, 36, 37, 38, 42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Species A, Claims 33, 34 and 36, in the reply filed on August 6, 2007 is acknowledged. The traversal is on the ground(s) that the searches all of the species can be performed without any serious burden, that the species are not mutually exclusive, and the species have similar features of Claims 13, 15 and 16.

This is not found persuasive because serious burden is now presented with new Claim 32 as all of the species depend from Claim 32. Clearly Claim 32 is not of the same scope as with Claim 1 (now canceled) and the examiner is entitled to make a restriction requirement at any point during prosecution so long as it is before a final action (MPEP § 811).

It is also noted that the species are in fact, mutually exclusive. Clearly a nonmagnetic frame is NOT a 3-axis ball screw driven linear slide, and is NOT any type of adhesive. Different prior art can applied to each of the species. For example, if a reference included the feature of a nonmagnetic frame, how would this meet the limitations of a 3-axis ball screw slide? It would not, which is why the species are mutually exclusive and each of the species, thus, have completely different lines of patentability.

And finally, the applicant(s) urge that all of the species be examined because these very same features are present in Claims 13, 15 and 16. But Claims 13, 15 and 16 have never been examined. These claims were non-elected throughout the prosecution of the application.

The examiner, however, notes that Claims 32, 37, 38 and 42 are generic claims and if any of these claims are found to be allowable during prosecution, that full consideration will be given to withdrawing the election of species requirement and rejoining all of the claims.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 35 and 39 through 41 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim.

3. Claims 12 through 30 continue to stand as being withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on April 5, 2006.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 32, 33, 36, 37 and 42 are rejected under 35 U.S.C. 102(b) as being anticipated by Aoki et al 6,336,989.

Aoki discloses a method of building a permanent magnet assembly comprising:
mechanically restraining permanent magnet blocks (e.g. 20) so as to prevent the blocks from moving with respect from one another; mechanically restraining a first permanent block (e.g. 20, in Fig. 4a) not in the plurality of permanent magnet blocks is a first direction by stopping (col. 7, lines 3-8); moving the restrained first permanent magnet block with respect the restrained permanent magnet blocks in a third direction (see arrow in Figs. 4a and 4b and 5) not parallel to

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a plane; and further restraining the first restrained magnet block in the position with a pole piece (e.g. 18, see Fig. 18).

Regarding Claim(s) 33 and 36, Aoki further teaches restraining the first permanent magnet, as well as other permanent magnet blocks, with a nonmagnetic frame (aluminum projection 24).

Regarding Claim(s) 37, the magnetic orientations of the first permanent magnetic block and another of the permanent magnet blocks differ in positions located on the plate (e.g. 14).

Claim Rejections - 35 USC § 103

6. Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Aoki et al.

Aoki discloses the claimed manufacturing method as relied upon above in Claims 32 and 37, further including that magnetic orientations of the first permanent magnet block and the other one of the permanent magnet blocks is 45° (see col. 7, lines 1+).

It is noted that the angle between the permanent magnet blocks is considered to be an effective variable required for the orientation of the permanent magnet blocks. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have change the angle of orientation to from 45° to 30°, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Response to Arguments

7. The applicant(s) arguments with respect to Claims 32, 33, 34 and 36, 37, 38 and 42, as filed in the response of April 17, 2007 have been fully considered, but are moot in view of the new ground(s) of rejection.

Allowable Subject Matter

8. Claim 34 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to A. Dexter Tugbang whose telephone number is 571-272-4570.

The examiner can normally be reached on Monday - Friday 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on 571-272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

**/A. Dexter Tugbang/
Primary Examiner
Art Unit 3729**

October 15, 2007